

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DELORES M. KARNOFEL,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

CASE NO: 4:10-CV-766

JUDGE DONALD C. NUGENT
(Magistrate Judge Vecchiarelli)

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Nancy A. Vecchiarelli. The Report and Recommendation (ECF # 24), issued on June 22, 2011, is hereby ADOPTED by this Court. Plaintiff sought judicial review of the Social Security Administration's final decision denying her applications for a Period of Disability and Disability Insurance Benefits, and Supplemental Security Income under Titles II and XVI of the Social Security Act, 42 U.S.C. §§ 416(i), 423, 1381. Magistrate Judge Vecchiarelli found that the ALJ's decision was supported by substantial evidence and that the ALJ applied the appropriate legal standards. Ms. Karnofel timely filed her objections to the Magistrate Judge's Report and Recommendation. (ECF #25).

The Court has reviewed *de novo* those portions of the Magistrate Judge's Report and Recommendation to which objections have been made. *See* FED. R. CIV. P. 72(b). The Court finds that Plaintiff's objections raise no arguments (factual or legal) that have not been fully

addressed by the Magistrate Judge's Report and Recommendation. Ms. Karnofel claimed disability based on myriad ailments including knee, hip, and back pain, Wilson's Thyroid Syndrome (also called Hashimoto's Thyroiditis), heavy metal toxicity, allergy to all medications, and fatigue, weakness, and impairment resulting from these problems and subsequent non-treatment of these problems.¹ Despite Ms. Karnofel's long list of alleged impairments, none of them meet or equal any specific impairment listed in Appendix 1 of 20 C.F.R. Part 404, Subpart P. (20 C.F.R §§ 404.1520(d), 404.1525, 404.1526, 416.920(d), and 416.926). A State Agency Physician reported that Plaintiff had no manipulative, visual, communicative, or environmental limitations. (Tr. 558-59). A vocational expert ("VE") testified that such a person (Plaintiff) could perform work that exists in significant numbers in the national economy. (Tr. 15). Additionally, Ms. Karnofel presented multiple medical diagnoses regarding her many different ailments, and the ALJ accorded these opinions proper weight in conjunction with the State and VE evaluations. A review of the record evidence indicates that the ALJ was correct when he noted that no treating source opined that Plaintiff was "disabled."² The medical evidence, viewed as a whole, was varied and often inconsistent; however, it still led to the conclusion that Ms. Karnofel's impairment did not rise to the level of disability. (Tr. 46-52). The Court finds Magistrate Judge

¹ Due to Ms. Karnofel's medicine allergy, she contends that she has sustained herself on supplements since 2001.


² Even if a treating source had determined that Plaintiff was "disabled," such an opinion would not be dispositive of Plaintiff's disability status because statements from a medical source that a claimant is "disabled" or "unable to work" are not medical opinions, but are rather comments on a determination reserved to the Commissioner and, therefore, are not entitled to controlling weight or special significance. 20 C.F.R. § 404.1527(e); S.S.R 96-5p. 1996 WL 374183, at *1 (1996).

Vecchiarelli's Report and Recommendation to be thorough, well-written, well-supported, and correct on this and all other issues addressed therein.

The Magistrate Judge's Report and Recommendation fully and correctly addresses all of the Plaintiff's claims and the Plaintiff's objections are unwarranted. The Court, therefore, adopts the Report and Recommendation in its entirety. Further, the Court certifies, pursuant to 28 U.S.C. §1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §2253 (c); FED. R. APP. P. 22(b). The Social Security Administration's final decision denying Ms. Karnofel's applications for a Period of Disability and Disability Insurance Benefits, and Supplemental Security Income is affirmed.

IT IS SO ORDERED.

DATED: July 18, 2011


DONALD C. NUGENT
United States District Judge